

AMENDED IN ASSEMBLY APRIL 8, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 2666

Introduced by Assembly Member Skinner

February 19, 2010

~~An act to amend Section 19546.5 of the Revenue and Taxation Code, relating to taxation. An act to add Sections 19571 and 19185 to the Revenue and Taxation Code, relating to taxation.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 2666, as amended, Skinner. Income taxes: Franchise Tax Board: ~~administration confidentiality.~~ *business credits: Reporting Transparency in Government Internet Web site.*

The Personal Income Tax Law and the Corporation Tax Law authorize various credits against the taxes imposed by those laws, including business credits, as defined.

This bill would require a taxpayer doing business in this state that claims any tax expenditure in the form of a business credit to submit, under penalty of perjury, to the Franchise Tax Board specified information, including, among other things, the amount of tax credits claimed by the taxpayer on the return for each credit authorized under the Personal Income Tax Law and the Corporation Tax Law. By requiring taxpayers to submit this information under penalty of perjury, this bill would expand the circumstances under which a person may be convicted of the crime of perjury and thereby impose a state-mandated local program.

This bill would require the board to annually compile the information received, commencing with information based on the 2010 taxable year, and would require, beginning on March 30, 2012, and each March 30th

thereafter, the board to submit the information to the State Chief Information Officer for publication on the Reporting Transparency in Government Internet Web site. This bill would require the Reporting Transparency in Government Internet Web site to include a searchable database of that information, as specified.

This bill would also impose a penalty of 1% of the credit claimed for each failure to file the required information, as specified.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law authorizes a person who has or had access to any return or return information to disclose that information to a committee, member, clerk, officer, or employee, as prescribed, if the person believes that information may relate to possible board misconduct, maladministration, or taxpayer abuse.~~

~~This bill would make a technical, nonsubstantive change in this provision.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 19571 is added to the Revenue and
- 2 Taxation Code, to read:
- 3 19571. (a) Notwithstanding any other law, a taxpayer doing
- 4 business in this state that claims any tax expenditure in the form
- 5 of a business credit shall submit to the Franchise Tax Board the
- 6 following information annually when filing the annual return
- 7 required under Part 10.2 (commencing with Section 18410):
- 8 (1) The number of full-time employees, as defined, part-time
- 9 employees, and temporary employees employed by the taxpayer
- 10 in this state.
- 11 (2) The amount of tax credits claimed by the taxpayer on the
- 12 return for each tax credit authorized under Part 10 (commencing
- 13 with Section 17001) or Part 11 (commencing with Section 23001).
- 14 (3) The number of full-time jobs, part-time jobs, and temporary
- 15 jobs created by the tax credit.

1 (4) A list of occupations, job classifications, and expected
2 average wages for the full-time jobs, part-time jobs, and temporary
3 jobs created by the tax credit.

4 (5) A certification by the taxpayer, signed under penalty of
5 perjury, that the information is true and correct and contains no
6 knowing misrepresentation.

7 (6) The taxpayer's office mailing address and office telephone
8 number.

9 (b) For purposes of this section, a "business credit" means any
10 credit against "net tax," as defined in Section 17039, or any credit
11 against the "tax," as defined in Section 23036, allowed under Part
12 10 (commencing with Section 17001) or Part 11 (commencing
13 with Section 23001), other than credits allowed under the following
14 sections:

15 (1) Section 17052.6 (relating to household and dependent care).

16 (2) Sections 17052.17 and 23617 (relating to employer's child
17 care assistance).

18 (3) Section 23617.5 (relating to employer's credit for
19 contribution to care plan).

20 (4) Section 17052.18 (relating to qualified dependent care plan).

21 (5) Section 17052.25 (relating to adoption costs).

22 (6) Section 17053.5 (relating to renters' tax credit).

23 (7) Sections 17053.30 and 23630 (relating to donations of
24 conservation land).

25 (8) Sections 17053.42 and 23642 (relating to disabled access
26 expenditures).

27 (9) Section 17054 (relating to personal, dependent, blind and
28 senior exemptions).

29 (10) Section 17054.5 (relating to joint custody head of
30 household).

31 (11) Section 17054.7 (relating to senior head of household).

32 (12) Section 17055 (relating to non-resident pro ration of
33 exemption credits).

34 (13) Section 17061 (relating to refunds pursuant to the
35 Unemployment Insurance Code).

36 (c) (1) Notwithstanding any other law, including Section
37 6254.21 of the Government Code, the Franchise Tax Board shall
38 annually compile the information received pursuant to this section,
39 commencing with information based on the 2010 taxable year.

1 (2) Beginning on March 30, 2012, and each March 30th
2 thereafter, the Franchise Tax Board shall submit the information
3 to the State Chief Information Officer for publication on the
4 Reporting Transparency in Government Internet Web site.

5 (d) The Reporting Transparency in Government Internet Web
6 site shall include a database searchable by company name, amount
7 of tax expenditure, or any other criteria necessary to increase
8 public awareness of the amount and scope of tax expenditures for
9 businesses in this state.

10 SEC. 2. Section 19185 is added to the Revenue and Taxation
11 Code, to read:

12 19185. A penalty of one percent of the credit claimed shall be
13 imposed for each failure to file the required information under
14 subdivision (a) of Section 19571, unless it is shown that the failure
15 is due to reasonable cause and not due to willful neglect.

16 SEC. 3. No reimbursement is required by this act pursuant to
17 Section 6 of Article XIII B of the California Constitution because
18 the only costs that may be incurred by a local agency or school
19 district will be incurred because this act creates a new crime or
20 infraction, eliminates a crime or infraction, or changes the penalty
21 for a crime or infraction, within the meaning of Section 17556 of
22 the Government Code, or changes the definition of a crime within
23 the meaning of Section 6 of Article XIII B of the California
24 Constitution.

25 ~~SECTION 1. Section 19546.5 of the Revenue and Taxation~~
26 ~~Code is amended to read:~~

27 ~~19546.5. A person who otherwise has or had access to any~~
28 ~~return or return information may disclose the return or return~~
29 ~~information to a committee appointed by the Assembly or Senate,~~
30 ~~or both, or any member, clerk, or other officer or employee thereof,~~
31 ~~if the person believes the return or return information may relate~~
32 ~~to possible board misconduct, maladministration, or taxpayer~~
33 ~~abuse.~~